

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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	:
THE UNITED STATES OF AMERICA,	:
	:
-against-	:
	:
DERRICK AYERS, <i>et al.</i> ,	:
	:
Defendants.	:
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**MEMORANDUM DECISION AND ORDER**

20-cr-239 (BMC)

COGAN, District Judge.

The government has requested to exclude time under the Speedy Trial Act from January 29, 2025, the date on which the Court denied defendants’ motions for acquittal and a new trial, to May 8, 2025, the latest-scheduled sentencing date. Defendant Franklin Gillespie objects and further argues that “more than 70 days of non-excluded time have passed since a mistrial was granted on June 18, 2024.”

The government’s request is granted.<sup>1</sup> First, the time that has elapsed since the Court granted a mistrial on certain counts is straightforwardly excludable under the Speedy Trial Act. Defendants were not only “consenting part[ies] to the delay,” they affirmatively sought the delay. United States v. Agostini, 279 F. Supp. 2d 276, 278 (S.D.N.Y. 2003). The Court was ruling on their motions, not the government’s.

Second, upon considering the statutory factors, I conclude it is appropriate to exclude time until the defendants’ sentencings. See 18 U.S.C. § 3161(h)(7)(B). The case is both “unusual” and “complex” due to the number of defendants, the scope of the criminal operation, and the voluminous evidence. Id. at § 3261(h)(7)(B)(ii). And the ends of justice outweigh the

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<sup>1</sup>The government’s request mentions only “defendants Derrick Ayers, Franklin Gillespie and Anthony Kennedy.” For the same reasons, time is excluded with respect to defendant Moeleek Harrell.

interests of the public and the defendants in a speedy trial. See id. at § 3261(h)(7)(B)(i).

Excluding time will allow the parties to review the enormous record and determine whether the remaining counts can be appropriately resolved without trial.

**SO ORDERED.**

*Brian M. Cogan*

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U.S.D.J.

Dated: Brooklyn, New York  
February 3, 2025